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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,556	09/14/2001	Brett P. Monia	RTS-0250	7962

7590 05/05/2004  
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EXAMINER

GIBBS, TERRA C

ART UNIT	PAPER NUMBER
1635	

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/954,556

Applicant(s)

MONIA ET AL.

Examiner

Terra C. Gibbs

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 12 is/are rejected.
- 7) ☒ Claim(s) 4-10, and 13-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

This Office Action is a response to Applicants Amendment filed February 24, 2004.

Claims 1, 2, 4-10, and 12-15 are pending in the instant application.

#### *Claim Rejections - 35 USC § 102/103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-10, and 12-15 were rejected under 35 U.S.C. 102(b) or 35 USC 103(a) as being anticipated by or obvious over Monia et al. [U.S. Patent No. 6,008,048]. **This rejection is withdrawn** in view of Applicant's Amendments to the claims to recite "a compound 8 to 50 nucleobases in length targeted to nucleobases 1470 through 1509", filed February 24, 2004. It is noted that Monia et al. taught an antisense oligonucleotide that is reverse complementary to bases 1943-1954 of SEQ ID NO:3 of the instant invention. Therefore, Applicants Amendment to recite nucleobases 1470 through 1509 has overcome the prior art of Monia et al.

#### *Claim Rejections - 35 USC § 112*

Claims 1, 2, 4-10, and 12-15 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement for containing new matter. **This rejection is withdrawn** in view of Applicant's Amendments to the claims to recite "a compound 8 to 50 nucleobases in length targeted to nucleobases 1470 through 1509", filed February 24, 2004. It is noted that nucleobases 1470 through 1509 have support in Table I at SEQ ID NOs: 65, 66, and 67.

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Applicants Amendment has necessitated the new grounds of rejection presented below:

***Claim Rejections - 35 USC § 102***

Claims 1, 2, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Consalez et al. [WO 98/13521]. **This is a new rejection.**

Claim 1 is drawn to a compound 8 to 50 nucleobases in length targeted to nucleobases 1479 through 1509 of a coding region of a nucleic acid molecule encoding human fibroblast growth factor receptor 2, wherein said compound specifically hybridizes with said nucleic acid molecule encoding human fibroblast growth factor receptor 2 (SEQ ID NO:3) and inhibits the expression of human fibroblast growth factor receptor 2. Claims 2 and 12 are dependent on claim 1 and include all the limitations of claim 1, with the further limitations, wherein the compound is an antisense oligonucleotide and a compound 8 to 50 nucleobases in length targeted to nucleobases 1479 through 1509 of a coding region of a nucleic acid molecule encoding human fibroblast growth factor receptor 2 and a pharmaceutically acceptable carrier.

Consalez et al. disclose a random primed reverse transcription PCR primer with the following sequence: 5'-cttggtcgtgcc/g-3' (see SEQ ID NO: 108). This random primed reverse transcription PCR primer is reverse complementary to bases 1497-1506 of SEQ ID NO:3 of the instant invention. Since the random primed reverse transcription PCR primer of Consalez et al. meets all the structural requirements of the instant claims, the random primed reverse transcription PCR primer would also be expected to specifically hybridize to a nucleic acid encoding human fibroblast growth factor receptor 2 as per applicant's definition set forth in the specification as filed, page 11, lines 30-37 and page 12, lines 1-26. Furthermore, since the prior

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art random primed reverse transcription PCR primer meets all the structural limitations of the claims, the prior art random primed reverse transcription PCR primer would then be considered to "inhibit expression" of the gene as claimed, absent evidence to the contrary. Regarding claim 12, compound is an antisense oligonucleotide and a compound 8 to 50 nucleobases in length targeted to nucleobases 1479 through 1509 of a coding region of a nucleic acid molecule encoding human fibroblast growth factor receptor 2 and a pharmaceutically acceptable carrier, a pharmaceutically acceptable carrier can be simply water

Therefore Consalez et al. anticipate claims 1, 2, and 12.

### ***Conclusion***

Claims 4-10, and 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terra C. Gibbs whose telephone number is (571) 272-0758. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John L. LeGuyader can be reached on (571) 272-0760. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tcg  
April 19, 2004

  
KAREN A. LACOURCIERE, Ph.D.  
PRIMARY EXAMINER